

**Before the
Federal Communications Commission
Washington, D.C.**

In the Matter of:

Application for Review of decisions)	
of the Schools and Libraries Division)	
of the Universal Service Administrative)	
Company for the Mathematics and Science)	Application Number
Center, Richmond, Virginia)	503384
)	
Joint Board on Universal Service)	CC Docket No. 02-6

Application for Review by the Mathematics and Science center, Richmond, Virginia. Billed Entity Number 126510; Funding Request Numbers 144819 and 1448960.

In accordance with the Code of Federal Regulations Title 47, Part 57, Section 54.719, The Mathematics and Science Center (Center), a Consortium of public school divisions in the greater Richmond, Virginia area, hereby requests the Federal Communications Commission (Commission) review the decision of the Universal Service Administrative Company (Administrator) captioned above.

Background

For Funding Year 2006, the Center applied for Universal Service E-Rate discounts for broadband and Internet connectivity in the amount of \$5,572.80. The Center applied for discounts as a Consortium in accordance with Commission regulations because the Center is owned, governed and serves students from school divisions in the greater Richmond, Virginia. The

Center is located in a former school building in eastern Henrico County.

According to the Center's Annual Report 2004-2005, overview of the Center:

The Mathematics & Science Center delivered educational programs that led and supported area school divisions in developing all students' math and science skills. The seven member school divisions provided the operating budget of this educational consortium: the counties of Chesterfield, Hanover, Henrico, King William and Powhatan and the cities of Colonial Heights and Richmond.

Students, teachers, and parents learned in the Center's uniquely designed award-winning facilities, in regular school classrooms equipped with special materials and visiting staff, through webbased programs, and in special Saturday and summer programs on campus and at a variety of locations throughout the community.

According to the annual report, over 700,000 contacts were reached directly or indirectly through Center instruction and materials, including Internet experiences.

Without question, the Center provides valuable educational services to member school divisions. Much of the educational services are provided via broadband Internet connections. The Center sought E-Rate discounts for those broadband Internet connections.

During the application review, the Administrator requested copies of Letters of Agency from all consortia members. The Center had not collected Letters of Agency in a format posted on the Administrator's Web site in its Sample Letter of Agency. The Center did however provide the Administrator reviewer with sufficient documentation to prove the Center was authorized to apply for E-Rate discounts.

In correspondence dated August 15, 2006 the Administrator denied funding for the Center citing the following reason: “Consortium leader has failed to provide evidence of authority to file Forms 471 on behalf of, or evidence of the membership of, a substantial number of the members included in this consortium.”

The Center appealed the denial to the Schools and Libraries Division on August 28, 2006 submitting the same material provided during application review (Attachment A).

In correspondence dated November 30, 2006 the Administrator denied the Center’s appeal (Attachment B).

Discussion

The Administrator has improperly denied funding for the Center and has grossly overstepped its authority to administer the E-Rate support mechanism in accordance with Commission regulation by adding requirements for the Letter of Agency beyond those required by the Commission. The Administrator has ignored proof of consortium ownership by school divisions. The Administrator failed to recognize the Form 479 as proof of knowingness of consortium membership and participation in the E-Rate program. Finally, for Fund Year 2006, the Administrator failed to provide guidance to consortia leaders on its Web site. The link to “Consortia

Lead Member Responsibilities” on the Reference Area of the Administrator Web site was not functional during the entire Year 2006 application window.¹ In denying funding for the Center, the Administrator first asserts that the Forms 479 submitted by each member of the Consortium provides “...no indication of the services or products that the board is intending on purchasing as part of the E-Rate program.”² To the contrary, each member signing the Form 479 certifies under oath that “I am the Administrative Authority for one or more schools or libraries for which universal Service Support Mechanism discounts have been requested or approved for eligible discounts.”³ Without knowing what services have been requested, it would be impossible for an entity to sign the certification. On its face the certifying authority recognizes E-Rate discounts have been requested and that those services are E-Rate eligible. It would stand to reason the certifying authority would be aware of the types of services covered under the application. Indeed, the Administrator acknowledges in the same paragraph “A statement about products or services is required on the LOA. The statement can be broad, but it cannot be left blank or unsaid.” In fact, the statement can be as broad as “All E-Rate eligible services.” Certification number 4 of the Form 479 covers this requirement without ambiguity.

¹ See www.waybackmachine.org for the Administrator’s Website dated January 12, 2006

² Administrators Decision on Appeal to Beverly Lewis Dated November 30, 2006 First Bullet

³ Form 479 Certification Line 4

In bullet two of the Administrator's Decision on Appeal, the Administrator asserts "You failed to provide evidence of your authority to file FCC Forms 471 on behalf of, or evidence of, the membership of all the members included in this consortium." The Center provided to both the reviewer and the Administrator Center bylaws that state the member school divisions are owners of the Center. Because the Center is owned by member school divisions and provides services to those school divisions, any E-Rate application must be filed as a consortium application – by definition. The owners of the Center are also members – by definition. These facts are clear and unmistakable on their face. The Center is at a loss to understand how the Administrator could not grasp this simple concept. The Center did provide minutes of the December 8, 2005 board meeting where the budget was discussed. The budget included a provision for E-Rate recovery of \$5,263 for the fiscal year 2006-2007. All member school division superintendents were in attendance at the December 8 meeting and were provided with copies of the budget. E-Rate was discussed at the meeting. Each superintendent was aware their school division was a member (owner) of the Center. Each superintendent knew E-Rate discounts were being applied for in support of Center activities. Each superintendent knew the Center applied for discounts for E-Rate eligible services each year of the E-Rate program. Each E-Rate representative for the superintendent signed a Form 479 before the Form 471 was filed acknowledging discounts had been applied for on their behalf.

Conclusion

The Center asks the Commission to overturn this decision and direct the Administrator to restore E-Rate discounts to the Center. The Center has demonstrated beyond doubt that all members of the consortium were aware of the Center filed for E-Rate discounts. The requirement to list specific services on documentation the Administrator refers to as a "Letter of Agency" has been revised to allow a general statement such as "all E-Rate eligible services," which is included in certification number 4 of the Form 479.

Finally, the Administrator provided absolutely no guidance to Consortia Leads during the Year 2006 filing window, as the link on the Administrator's Web site Reference Area Consortia Lead guidance was not operational.

The Commission has consistently ruled that the E-Rate program is exceedingly complex and the Administrator must improve applicant training and outreach. For consortia guidance in Year 2006, the Administrator utterly failed.

Alternatively, and in the public interest, the Center asks the Commission to waive any minor rule violations that may have occurred with this filing. We note the funding request is relatively small, is for necessary services, did not waste program resources and did not abuse the intent of the program.

Certainly, there was no fraud involved with this funding request.

Respectfully submitted this 25 day of January, 2007

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Business Manager

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